

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of

Request for Review of the)	JUL 27 2003
Decision of the)	
Universal Service Administrator by)	
 Albany Public Library)	 File Nos. SLD-264946,
Albany, New York		264948, 264968, 264975
 Federal-State Joint Board on)	 CC Docket No. 96-45
Universal Service)	
)	
Changes to the Board of Directors of the		CC Docket No. 97-21✓
National Exchange Carrier Association, Inc.		

ORDER

Adopted: January 14, 2003

Released: January 15, 2003

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed by Albany Public Library (Albany), Albany, New York.¹ Albany seeks review of a decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company to deny Albany's applications for discounted services under the schools and libraries universal service support mechanism.² For the reasons set forth below, we deny the Request for Review.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections? The Commission's rules provide that, with one limited exception for existing, binding contracts, an eligible school, library or consortium that includes eligible schools or libraries must seek

¹ Letter from Patricia M. Hollman, Albany Public Library, to the Federal Communications Commission, filed January 3, 2002 (Request for Review).

² Letters from Schools and Libraries Division, Universal Service Administrative Company, to Patricia M. Hollman, Albany Public Library, dated July 23, 2001 (Funding Commitment Decision Letters); Letters from Schools and Libraries Division, Universal Service Administrative Company, to Patricia M. Hollman, Albany Public Library, dated October 1, 2001 (Administrator's Decision on Appeal Letters).

³ 47 C.F.R. §§ 54.502, 54.503.

competitive bids for all services eligible for support.⁴ In accordance with the Commission's rules, an applicant must file with SLD, for posting to its website, an FCC Form 470 requesting services.⁵ The applicant must wait 28 days before entering into an agreement with a service provider for the requested services and submitting an FCC Form 471 requesting support for the services ordered by the applicant.⁶ Further, the instructions for the FCC Form 471 state that the date of signature for the FCC Form 471 "CANNOT be earlier than the 29th day following the posting of the associated FCC Form 470 to the [SLD] Web Site."

3. Upon review of the record, we conclude that SLD correctly denied Albany's request for support.⁸ Albany's FCC Form 470 was posted on December 20, 2000.⁹ Under the program rules, Albany was not permitted to sign and submit its FCC Form 471 until after the end of the 28-day competitive bidding period, on January 17, 2001.¹⁰ However, Albany signed its form on January 16, 2001.¹¹ Albany maintains that it actually signed and submitted its Form 471 on January 17, 2001 but that in preparing the FCC Form 471, the wrong date was inadvertently written down." In support of its claim, Albany has enclosed a copy of its mail receipt for its Form 471 dated January 17, 2001.¹³

4. A signature date on an FCC Form 471 or on a service provider agreement that predates the expiration of the 28-day posting period indicates that the applicant failed to wait 28 days before entering into an agreement with a service provider and therefore violated the

⁴ 47 C.F.R. §§ 54.504, 54.511(c)

⁵ See Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (FCC Form 470).

⁶ 47 C.F.R. § 54.504(c); see Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (FCC Form 471).

⁷ Instructions for Completing the Schools and Libraries Universal Service Services Ordered and Certification Form (December 1998) at 24 (FCC Form 471 Instructions).

⁸ SLD initially denied Albany's funding request because SLD misunderstood Albany's FCC Form 471 as requesting an 80 percent discount for internal connections. On appeal, SLD determined that Albany had actually requested the discount for telecommunications services in compliance with program rules. However, SLD still denied Albany's funding request because upon review, it determined that Albany had signed its FCC Form 471 prior to waiting 28 days after its FCC Form 470 had been posted in violation of the Commission's rules. See Administrator's Decision on Appeal Letters at 1-2.

⁹ See FCC Forms 470, Albany Public Library, filed December 29, 2000.

¹⁰ See *id.*, 47 C.F.R. § 54.504(b)(4)

¹¹ See FCC Forms 471, Albany Public Library, filed January 16, 2001 (Block 6 certification page bearing January 16, 2001 as the date of signature).

¹² See Request for Review at 2.


¹³ See *id.* The United States Postal Service Express Mail receipts are dated January 17, 2001 and the United States Postal Service Express Mail packages are postmarked January 17, 2001.

Commission's competitive bidding rules.¹⁴ Except in limited instances, the Wireline Competition Bureau has consistently denied requests for review by applicants that had violated the Commission's 28-day competitive bidding requirement."

5. In the present case, Albany has not provided sufficient alternative evidence establishing that it erroneously signed its FCC Form 471 after the 28-day waiting period. Albany has only provided the Commission with a copy of its FCC Form 471 mail receipt. Although this receipt does provide evidence of that Albany submitted its FCC Form 471 on January 17, 2001, it fails to establish conclusively that Albany signed its application on that same date. As a result, we find that Albany has failed to provide the Commission with persuasive evidence that demonstrates that it complied with the Commission's competitive bidding requirements. We, therefore, deny Albany's Request ~~for~~ Review.

6. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91.0.291, and 54.722(a), that the Request for Review filed by Albany Public Library, Albany, New York, on January 31, 2002, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifen

Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau

¹⁴ See *Request for Review by Minor High School, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-139210, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 13790, 13792, ¶ 5 (Com. Car. Bur. 2000).

¹⁵ See *Request for Review by Cathedral Grade School, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-87608, CC Docket Nos. 96-45 and 97-21, Order, DA 99-2953 (Com. Car. Bur. rel. December 21, 1999); *Request for Review by Currituck County Schools Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-I 11040, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 5564 (Coin. Car. Bur. 2000); *Request for Review by Gustine Independent School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-108651, CC Docket Nos. 96-45 and 97-21, Order, DA 99-2534 (Com. Car. Bur. rel. November 16, 1999). In such limited cases, due to the use of the on-line application process available on SLD's website, the applicant was able to clearly establish that it erroneously entered the wrong date on its FCC Form 471 which resulted in denial of its funding request. Specifically, applicants choosing the on-line filing method were required to print out a Block 6 certification page at the end of the on-line filing process and then, after signing and dating the certification page, were required to separately submit it by mail. In the event a carrier erroneously entered the wrong date, the actual date of printing was visible at the bottom of the Block 6 certification page. Therefore, in these limited cases, although an applicant's FCC Form 471 may have reflected a signature date prior to the expiration of the 28-day waiting period, the printing date on the signature page demonstrated that the signature page entered by the applicant was erroneous.